

Remarks

Claims 39-58 are pending in this application. With this Amendment and Reply, claims 39, 41, 51, 53 and 58 are amended to more particularly point out and distinctly claim the invention. The amendments are made without prejudice or disclaimer.

Support for the use of bacterial starch binding domains is provided in the publication of the PCT parent application, WO 00/77165, at page 12, lines 25 and 32.

It is believed that the claims as amended render moot the use of Chen et al., Biotechnology Progress 7:225-229 (1991) as a unity-destroying reference, because Chen et al. utilizes a starch binding domain (SBD) from *Aspergillus* glucoamylase. Since *Aspergillus* is not a bacterium, the Chen et al. reference is irrelevant to the unity of the current claims.

Restriction Requirement

Pending claims 39-58 have been restricted into the following four groups:

Group I, claims 39-50 and 54-58, drawn to a genetic construct comprising a polynucleotide encoding a starch binding domain and a GBSS1 from potato;

Group II, claims 39-50 and 54-58, drawn to a genetic construct comprising a polynucleotide encoding a starch binding domain and an *E. coli* glycogen branching enzyme;

Group III, claims 39-50 and 54-58, drawn to a genetic construct comprising a polynucleotide encoding a starch binding domain and a potato kinase R1; and

Group IV, claims 51-53, drawn to a fusion protein.

In response to the Restriction Requirement, applicants elect Group I, drawn to a genetic construct comprising a polynucleotide encoding a starch binding domain and a GBSS1 from potato. This election is made with traverse with respect to Groups I, II and III, since applicants believe that the claim amendments bring those groups into unity of invention.

Appl. No. 10/009,876
Amdt. dated January 10, 2005
Reply to Office Action of December 10, 2004

Conclusion

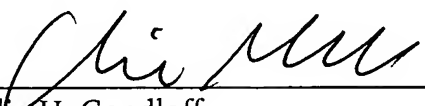
Applicants believe that, with this Amendment and Reply, all preliminary matters are overcome. Substantive examination of claims 39-50 and 54-58 is respectfully requested. If there are any minor matters preventing is, Examiner Kallis is requested to contact the undersigned attorney to resolve those matters.

It is believed that no payment is required with this response. However, if there is any unanticipated fees, the PTO is authorized to withdraw those fees from Deposit Account 01-1785.

Respectfully submitted

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Applicant
90 Park Avenue
New York, NY 10016
(212) 336-8000

Dated: New York, New York
January 10, 2005

By: 
Eric H. Gendloff
Registration No.: 44,704